

unable to receive service or a reasonable substitute from another carrier."

The Commission should expressly state that nondominant carriers are permitted to use this avenue to discontinue or reduce common carrier service for the purpose of allowing part of their capacity to be used for private carriage. Moreover, the Commission should make clear its expectation that in many if not most instances of applications made for this purpose, it is unlikely that there will be any affected customers to the extent that facilities-based carriers continue to provide common carrier services with much of their capacity.<sup>14/</sup> This also means that the grounds stated in the rule for denial of the application are extremely unlikely to be met and the Commission should so state.

#### **V. CONCLUSION**

The Commission's proposals for maximally streamlining its treatment of nondominant carriers' tariff filings are procompetitive insofar as they would apply to tariff filings which would not abrogate or change existing long-term arrangements, and to that extent they should be

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<sup>14/</sup> For resellers, as noted above, service would continue to be available from underlying facilities-based carriers. The offering of private carriage by resellers therefore cannot jeopardize the availability of common carrier services, and accordingly the Commission should simply authorize all resellers on a blanket basis to elect private carrier status for some or all of their services.

adopted. But they should be strengthened by further measures designed to assure that carriers do not use the tariffing process for the invalid purpose of reneging on their long-term arrangements. In addition, the Commission should clearly establish private carriage as an additional pro-competitive way for nondominant carriers to do business.

Respectfully submitted,

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